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控訴の許可

— ドイツ行政裁判所法124条・124a条 —

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Die Zulassung der Berufung

— § § 124 · 124 a VwGO —

by

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Abstract

In Germany, the Administrative Court Act was reformed in 1996 and came into force in 1997. The Act introduced a new system, a leave to appeal, in which an appeal may not without the leave of the court be presented (§ § 124, 124a). Suppose, for instance, that A sued and lost the case; but wants to appeal the decision. Under the old system A would have been able to take proceedings in an appellate court easily. But now such proceedings must be preceded by a leave to appeal, and A must present the petition seeking it in court; if A cannot get it, A fails to appeal. In addition, for the petition, A must be represented by a lawyer (§ 67); A cannot bring such a petition unless A is represented by a lawyer. Moreover the Act has been limited for the reason of leave (§ 124(2)1-5). What has the introduced system done? An appellate court is not made accessible to the people, and the protection of rights is partly lowered to a minimum constitutionally permissible level.

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